IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI WESTERN DIVISION

STEVEN DALE LEIBER,)
Plaintiff,)
VS.)) No. 11-00699-CV-W-FJG
UNITED STATES OF AMERICA,)
Defendant.)

ORDER

The government has filed a three-part motion in limine (Doc. No. 46). Plaintiff filed no response. The Orders on the government's requests are as follows:

I. The United States moves the Court to enter an <u>in limine</u> order excluding any argument or documentary or testimony evidence from the plaintiff attempting to explain the accident through the laws of physics.

The government notes that, while plaintiff is proceeding pro se, his status does not grant him leeway to give expert testimony through his own opinion of the laws of physics.

Plaintiff filed no opposition.

Ruling: <u>Sustained.</u>

II. The United States Moves the Court to enter an <u>in limine</u> order excluding any argument or documentary or testimonial evidence regarding any claims or theories of liability that were not raised and exhausted by the plaintiffs administratively and any damage claims that were not asserted with certainty administratively.

Under the Federal Tort Claims Act ("FTCA"), a ""tort claim . . . shall be forever barred unless it is presented in writing to the appropriate Federal agency within two prior years after such claim accrues or unless action is begun within six months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the agency." 28 U.S.C. § 2401(b). Thus, plaintiff can only proceed on the claims presented

administratively prior to filing suit. In this matter, Leiber filed a timely claim with the United States Postal Service, but only made claims for property damage in the amount of \$6,409.26. Defendant indicates that any other claims, especially those for personal injury, are precluded as plaintiff did not present those claims through the administrative process.

Plaintiff filed no response.

Ruling: Sustained.

III. The United States moves the Court to enter an Order excluding any argument or documentary or testimonial evidence seeking an award of punitive damages or generally regarding the wealth disparity between the parties or pleading financial impoverishment by Leiber.

Defendant notes that arguments regarding wealth or status of a defendant are improper, and such evidence should be kept out of an FTCA action because of the size and preexisting animus toward the federal government. Further, punitive damages are not recoverable under the FTCA. 28 U.S.C. § 2674.

Plaintiff filed no response.

Ruling: <u>Sustained</u>.

The Clerk of the Court is directed to send a copy of this Order via first class mail to plaintiff at the following address: Steven Dale Leiber, 11272 East 71st Terrace, Raytown,

Missouri 64133.

IT IS SO ORDERED.

Date: September 18, 2013

Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.

Fernando J. Gaitan, Jr.

Chief United States District Judge

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